

The PRESIDING OFFICER. Under the previous order, the concurrent resolution, H. Con. Res. 183, is considered and agreed to.

The Senator from Arkansas.

#### MORNING BUSINESS

Mr. BOOZMAN. Mr. President, I ask unanimous consent that the Senate be in a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

#### JASTA

Mr. HATCH. Mr. President, today I wish to share some of my thoughts on an issue relating to the Justice Against Sponsors of Terrorism Act.

Few dispute the noble goal of ensuring that justice is done for the families of the victims of September 11. Time after time, this body has acted to honor the memories of the fallen from that terrible day, just as it should. But in acting to honor the victims of September 11 and the grieving families they left behind, we cannot lose sight of other crucial policy goals that enjoy broad bipartisan support, such as preserving important legal principles that protect the members of our Armed Forces and perpetuate strong relations with important allies.

As an article in the December 6 edition of the New York Times explains, there are ample concerns that individual citizens of a close U.S. ally have funded terrorist activities and may have assisted those who carried out the September 11 attacks.

Despite the claim that this ally has taken any official action to support the September 11 attackers remains far from proven and, in fact, has been of great and instrumental assistance that this ally has provided in prosecuting the war on terrorism, questions do remain.

In response, the families of numerous September 11 victims looked to resolve these questions through the courts. Specifically, they sought a change to the law that greatly expands the ability of a private individual to bring a suit in federal court against a sovereign nation. Heeding the calls for justice from victims' families, we recently enacted the Justice Against Sponsors of Terrorism Act law, and as a result, the scope of the legal principle known as sovereign immunity—here, the immunity of a foreign government from a civil suit in our Federal courts—has been distinctly reduced.

Again, there is nothing wrong with September 11 families seeking justice; in fact, I laud them for their commitment and perseverance, which is why I supported the passage of this legislation at the time and still strongly support its goals. Nevertheless, one of the consequences of the exact language of the new statute is that our important

ally now faces the prospect of going through the extensive and intrusive discovery process in federal court. As a result, one of our closest partners in the war on terrorism could be ordered by a Federal judge to turn over some of their most sensitive documents in order to show that their official governments actions did not directly support the September 11 attackers. Indeed, nothing in the recently declassified portions of the September 11 Commission Report suggests that our ally's government leadership had any role in the attack.

We must consider how the technical features of this change in the law will affect our national security. If we allow such lawsuits to proceed under the particulars of the newly enacted statutory language here in the United States, we undermine the central premise of our objection to other countries that might seek to modify their sovereign immunity laws by permitting lawsuits against the United States. We could easily find ourselves at the mercy of a foreign justice system—one far different than our own—if someone filed suit in a foreign nation against the United States and demanded that our government turn over highly classified documents. If our government refused, that foreign court could potentially exact serious consequences, such as freezing American assets overseas. Worse yet, if other nations change their sovereign immunity laws, foreign courts could potentially begin to hold U.S. service members personally liable, both civilly and criminally, for actions they have based upon the lawful orders of their superiors.

In sum, once we begin to unravel sovereign immunity at home, we risk creating a cascade of unintended consequences abroad.

These concerns are widely shared. In a recent op-ed in the Wall Street Journal, former Attorney General Michael Mukasey and Ambassador John Bolton made those very same arguments. They also point out that the new law "shifts authority for a huge component of national security from the politically accountable branches—the President and the Congress—to the Judiciary, the branch least competent to deal with international matters of life and death.

In fact, I was particularly struck by the fact that the editorial boards of the New York Times, the Wall Street Journal, the Washington Post, the Los Angeles Times, and Bloomberg have all raised serious and substantial concerns regarding the particulars of the new legislation. Mr. President, I ask unanimous consent that some of these editorials be printed in the RECORD following my remarks.

Not only do these editorial boards believe this is not in the best interest of the United States, but so do our closest allies as well. Specifically, officials from the European Union, the United Kingdom, and the Netherlands have all written public messages or passed reso-

lutions echoing these arguments. Mr. President, I ask unanimous consent that a letter from the government of the Netherlands be printed in the RECORD following my remarks.

Nevertheless, I do believe a solution can be found that provides justice for the September 11 families while enhancing our national security. My optimism stems in no small part from the leaders involved. I understand Senators MCCAIN and GRAHAM are working on just such a compromise, and I fully support their efforts to achieve a just resolution of this issue. Furthermore, we all owe Senator CORNYN a debt of gratitude for his leadership in ensuring that justice is done. I am also greatly encouraged that Senator SCHUMER is leading the Democratic efforts on this matter.

The role of the Senate is to resolve the great issues facing our Nation by forging lasting consensus. We have numerous such challenges in the past, and I fervently believe that building such a solution is possible. I urge all my colleagues to help us move toward this goal.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 28, 2016]

THE RISKS OF SUING THE SAUDIS FOR 9/11

(By the Editorial Board)

The Senate and the House are expected to vote this week on whether to override President Obama's veto of a bill that would allow families of the victims of the Sept. 11 attacks to sue Saudi Arabia for any role it had in the terrorist operations. The lawmakers should let the veto stand.

The legislation, called the Justice Against Sponsors of Terrorism Act, would expand an exception to sovereign immunity, the legal principle that protects foreign countries and their diplomats from lawsuits in the American legal system. While the aim—to give the families their day in court—is compassionate, the bill complicates the United States' relationship with Saudi Arabia and could expose the American government, citizens and corporations to lawsuits abroad. Moreover, legal experts like Stephen Vladeck of the University of Texas School of Law and Jack Goldsmith of Harvard Law School doubt that the legislation would actually achieve its goal.

Co-sponsored by Senator Chuck Schumer, Democrat of New York, and Senator John Cornyn, Republican of Texas, the measure is intended to overcome a series of court rulings that have blocked all lawsuits filed by the 9/11 families against the Saudi government. The Senate passed the bill unanimously in May, and the House gave its approval this month.

The legislation would, among other things, amend a 1976 law that grants other countries broad immunity from American lawsuits—unless the country is on the State Department's list of state sponsors of terrorism (Iran, Sudan and Syria) or is alleged to have committed a terrorist attack that killed Americans on United States soil. The new bill would clarify that foreign governments can be held liable for aiding terrorist groups, even if that conduct occurred overseas.

Advocates say the measure is narrowly drawn, but administration officials argue that it would apply much more broadly and result in retaliatory actions by other nations. The European Union has warned that